

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 17-29 have been withdrawn from further consideration pursuant to 37 C.F.R. §1.142(b) as being drawn to a non-elected group; Claims 9-10, 14 and 15 have been rejected under 35 U.S.C. §103 as being unpatentable over Starkey in view of DE29718483 and Claims 11-13 and 16 have been rejected under 35 U.S.C. §103 as being unpatentable over Starkey in view of DE29718483 and Boesen. Claims 17-29 have been canceled, without prejudice and thus, Claims 9-16 remain active.

Considering first then the rejection of Claims 9-10, 14 and 15 under 35 U.S.C. §103 as being unpatentable over Starkey in view of DE29718483 (hereinafter DE '483), Applicants note that the earpiece claimed in Claim 9 includes the limitations of an angle transfer segment connected with a shank adapted to follow an outer edge of a patient's cavum conchae and configured to be disposed above the patient's antitragus, the angled transverse segment emerging from the shank and extend in a direction of the patient's porus acusticus externus wherein a *broadened* portion of the angled transfer segment *defines a bore* configured to hold a signal conductor *in an upper half of the patient's auditory canal and to prevent the signal conductor from covering a portion of a lower half of the patient's auditory canal*. In this regard, it is respectfully submitted that a close review of both Starkey and DE '483 fails to indicate a teaching or disclosure of the limitations noted above that appear in italics. More particularly, while Starkey is cited as teaching a portion 9b which teaches a broadened portion defining a bore configured to hold a signal conductor in an upper half of a patient's auditory canal, a review Figures 1-5 of Starkey indicates that loop 9 is shown which has a straight, forwardly disposed portion 9b which is connected to an auditory canal plug member 7 which has a sound transmission passage 7a extending through only the plug

member. Insofar as one of the advantages of the present invention is that the broadened portion of the angled transverse segment is configured to hold the signal conductor in an upper half of the patient's auditory canal, it is clear from a review of Starkey that plug member 7 completely covers the auditory canal. Moreover, broaden portion 9b does not have the bore 7a formed therein and instead plug member 7 has such bore extending therethrough.

DE '483 also fails to teach or disclose the above-emphasized limitation. More particularly, attached hereto are two sketches (Attachments A and B) by which Applicant has outlined the basic differences between DE '483 and the present invention as presently claimed. Starting with the present invention, as shown in attachment A, it is important in the present invention that the earpiece 4 behind-ear-part has a shank adapted to follow an outer edge of a patient's cavum conchae and that **above** the patient's antitragus an **angled** transverse segment emerges from the shank and **extends** in a direction of the patient's porus acusticus externus, wherein a **broadened** portion of that angled traverse segment defines a bore to hold a signal conductor **in an upper half** of the patient's auditory canal and to prevent the signal conductor from covering a portion of a lower half of the patient's auditory canal.

In addition to the above-noted comments, it is noted that Starkey suffers from the basic disadvantages including causation of the so-called "occlusion effect" which is to be prevented by the present invention.

In view of the foregoing, it is submitted that Claims 9, 10, 14 and 15 clearly patentably define over Starkey in view of DE '483 as well as the remaining references of record.

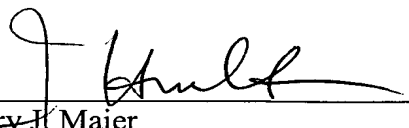
Next considering then the rejection of Claims 11-13 and 16 under 35 U.S.C. §103 as being unpatentable over Starkey in view of DE '483 and Boesen, Applicants note that Boesen fails to rectify the deficiencies noted hereinabove with regard to Starkey and DE '483.

Moreover, Boesen merely describes a special system which records the air-conductor sound as well as the bone-conducted sound in the outer auditory canal of the speaker by means of two sensors 16, 17. In order to be able to record the bone-conducted sound, it is necessary that the earpiece is strongly pressed against the wall of the auditory canal. This leads to a pronounced "foreign body feeling" of two lesions of the auditory canal wall. It is therefore difficult to provide a sufficient wearing acceptance for such device. This reference in addition is completely silent with regard to copy molding of the auditory canal and of the outer ear for designing an earpiece according to individual anatomy. In summary, Boesen records the sound in the auditory canal whereas the present invention is directed to a hearing system where the sound is output within the auditory canal through a sound tube. Accordingly, Boesen would not be obviously combinable with Starkey or DE '483 insofar as it significantly differs in terms of structure and functioning as compared with the hearing aids set forth in such references. It is therefore submitted that each of Claims 11-13 and 16 patentably define over Starkey, DE '483 and Boesen.

In view of the foregoing, an early and favorable Office Action is believed to be in order and the same is hereby respectfully requested.

Respectfully submitted,

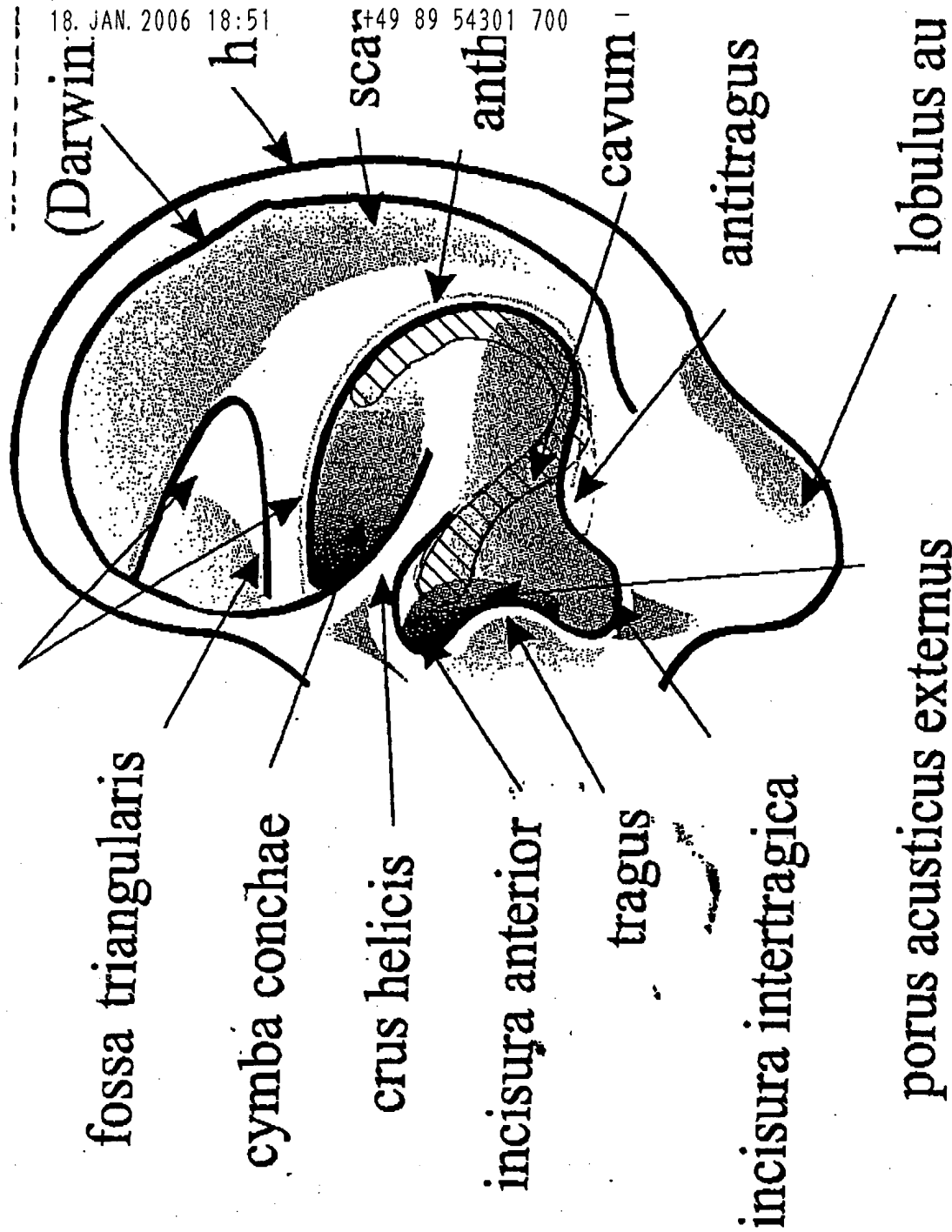
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**INVENTION**

ATTACHMENT A

10/790,126

DE... 483

ATTACHMENT B  
10/790, 126

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